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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,693	08/11/2003	Perry Wade Schoneboom	23077-00002	1692

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/604,693	SCHONEBOOM, PERRY WADE	
	Examiner	Art Unit	
	Todd M. Epps	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,12-14 and 19-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,15-18 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the second Office Action **final** for serial number 10/604,693, Support Bracket, filed on August 11, 2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-8, 10, 11, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,853,066 to Gohn.

Gohn '066 discloses a bracket assembly (fig. 3) comprising a plurality of mounting brackets (24) each having a first end (near 26) adapted to be secured to a vertically extending object having an outer perimeter, and a second end (fig. 3) adapted to be mounted in a position horizontally spaced away from the outer perimeter, the second end including means for supporting a hanging item, the mounting brackets adapted to be spaced around the perimeter, and a load supporting member (18) adapted to be positioned encircling and spaced a horizontal distance around the object, with an unobstructed space encircling object between an object and a load supporting member (fig. 2), wherein the load supporting member being connected to each of the mounting brackets and vertically displaced above the first ends thereof, and being unsupported on a vertically extending object at any point above the elevation of a

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loading support member, an object extending vertically above the elevation of a load supporting member and each of hanging items being positioned below an elevation, each of items it is entirety being horizontally spaced away from an object; wherein the load supporting member comprises a plurality of parts connected together, wherein the mounting brackets are adjustably connected to the supporting member, wherein hook brackets (fig. 3) connects each of the mounting brackets to the supporting member, wherein the hook brackets are adjustably connected to the mounting brackets, wherein the mounting brackets are forced against an object when an item is hung from the supporting member/bracket assembly, wherein the supporting member includes at least one extending bracket (fig. 3) connected to the mounting bracket, wherein the mounting bracket includes a holding member/protrusion (26), wherein the first end of the mounting brackets are below the supporting member, wherein each bracket is connected to the load supporting member at a point displaced from the first end.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,290,504 to Cuba.

Cuba '504 discloses a bracket assembly (fig.1) comprising a plurality of mounting brackets (24) each having a first end (fig. 2) adapted to be secured to a vertically extending object having an outer perimeter, and a second end (fig. 2) adapted to be mounted in a position horizontally spaced away from the outer perimeter, the second end including means for supporting a hanging item, the mounting brackets adapted to be spaced around the perimeter, and a load supporting member (fig. 1) adapted to be positioned encircling and spaced a horizontal distance around the object, the load

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supporting member being connected to each of the mounting brackets and vertically displaced from the first ends thereof (fig. 1), and being unsupported on a vertically extending object at any point above the elevation of a loading support member; and an object extending vertically above the elevation of a load supporting member and each of hanging items being positioned below an elevation, each of items it is entirely being horizontally spaced away from an object.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gohn '066 in view of U.S. Patent No. 2,854,293 to Riblet.

Regarding claim 3, Gohn '066 teaches the previous invention wherein the supporting member includes a plurality of parts connected together, but fails to specifically teach the plurality of parts to be threadably connected. Nevertheless, Riblet '293 teaches the well-known concept of pivotally attaching two members via a threaded connection (column 2, lines 64-65). Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have threadably connected the plurality of parts since doing so is a well known method in the art to pivotally connect

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two objects in addition to allowing for the objects to be quickly detached for repair or replacement.

With respect to claim 9, Gohn '066 teaches the previous invention wherein each hook bracket is pivotally connected to the supporting member, but fails to specifically teach each hook bracket to be threadably connected to the supporting member. Nevertheless, Riblet '293 teaches the well-known concept of pivotally attaching two members via a threaded connection (column 2, lines 64-65). Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have threadably connected the hook brackets to the supporting member since doing so is a well known method in the art to pivotally connect two objects in addition to allowing for the objects to be quickly detached for repair or replacement.

Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cuba '504 in view of U.S. Patent No. 5,355,974 to Miller.

Cuba '504 reveals the previous invention failing to specifically teach the mounting bracket(s) to include a holding member adapted to contact the vertical object that includes a nail. Nevertheless, Miller '974 teaches a bracket assembly comprising at least one mounting bracket, and a supporting member connected to the mounting bracket, wherein the mounting bracket includes a holding member/nail (16). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a holding member/nail on the mounting bracket(s) of Cuba '504 as in Miller '974 so as to provide for superior mounting of the mounting brackets on a vertically extending object.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gohn '066 in view of Miller, Jr. '896.

Gohn '066 reveals the previous invention failing to specifically teach the holding member to include a rubber pad. Nevertheless, Miller, Jr. '896 discloses a bracket assembly comprising at least one mounting bracket, and a supporting member connected to the mounting bracket, wherein the mounting bracket includes a holding member/rubber pad (see column 2, line 56). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the holding member of Gohn '066 to be a rubber pad as in Miller, Jr. '896 so as to provide for superior mounting of the mounting brackets on a vertically extending object while preventing marring of the vertically extending object.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gohn '066 in view of U.S. Patent number 6,725,972 to Krier et al (Krier).

Gohn '066 discloses the previous invention failing to specifically teach the first ends of the mounting brackets to each include a tooth adapted to contact the object. Nevertheless, Krier '972 teaches a bracket assembly comprising a mounting bracket and a load supporting member, wherein the first end of the mounting bracket includes a tooth (9) adapted to contact an object. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the first end of the mounting brackets of Gohn '066 to have a tooth as in Krier '972 so as to provide for superior mounting of the mounting brackets to the vertically extending object.

Response to Arguments

Applicant's arguments filed December 13, 2005 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-3, 6-11, 15-18, and 31 have been considered, however, the references or prior arts listed above have all the elements shown in the applicant's claims. In response to applicant's argument that Gohn reference does not teach the supporting means and require an open space between the load-supporting member that encircles the vertical object. The Examiner clearly disagrees. It is noted that the features upon which applicant relies are not recited in the rejected claim.

Next applicant argues that the obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F. 2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

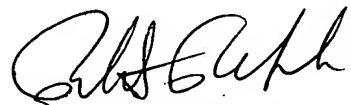
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
February 21, 2006

 2/21/06
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